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FACSIMILE COVER SHEET

TO: Examiner F. Mathew
U.S. Patent and Trademark Office

FROM: Leonard P. Diana, Esq.

RE: U.S. Patent Application No. 09/855,942
Atty. Docket No. 02633.000001.

FAX NO.: 703-872-9306

DATE: October 27, 2004 **NO. OF PAGES:**
(including cover page)

TIME: **SENT BY:**

MESSAGE

Attachments:

Response and Request for New Office Action (three (3) pgs.), and attachment (one (1 pg.)

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02633.000001.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Examiner: E. Mathew
MICHAEL SACHS)
Application No.: 09/855,942) Group Art Unit: 3764
Filed: May 16, 2001)
For: MAXIMAL NASAL INTERNAL)
SUPPORT SYSTEM : October 27, 2004

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE AND REQUEST FOR NEW OFFICE ACTION

Sir:

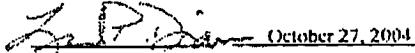
Applicant again thanks the Examiner and his supervisor for the courtesies extended Applicant's undersigned attorney in conducting a personal interview with him on July 22, 2004. The substance of that interview is summarized in the Second Preliminary Amendment, dated July 23, 2004, and filed in the U.S. Patent and trademark Office on that date by facsimile transmission and Certificate of Transmission (see attached copy of the Patent and Trademark Office's receipt of that transmission).

I hereby certify that this correspondence is being transmitted by facsimile to the U.S. Patent and Trademark Office at (703) 872-9306, on
October 27, 2004.

(Date of Transmission)

Leonard P. Dienna (Reg. No. 29,296)

(Name of Attorney for Applicant)

 October 27, 2004

Signature

Date of Signature

A Second Information Disclosure Statement was also filed on July 23, 2004, by hand.

During the mentioned interview, the Examiner's supervisor advised Applicant's representative that Applicant's request in the Request for Continued Examination for a suspension, which had been requested for the purpose of scheduling and conducting a personal interview, was not correctly docketed by the Patent and Trademark Office staff, and that consequently, the Examiner had no choice but to issue an immediate Office Action. Nonetheless, it is noted that in light of the correctly-requested suspension, Applicant is entitled as of right to the entry of both the Second Preliminary Amendment and of the Second Information Disclosure Statement, since both were filed in the Patent and Trademark Office prior to the last day of the suspension, i.e., July 26, 2004.

Since for the mentioned reason the Examiner was constrained to issue an Action without waiting for the Second Preliminary Amendment and the Second Information Disclosure Statement to be processed by the Patent and Trademark Office clerical staff and forwarded to him, the Office Action dated July 26, 2004, necessarily did not take account of the changes made by the Second Preliminary Amendment, or acknowledge or make of record the information cited in the Second Information Disclosure Statement. While Applicant's attorney had understood that upon the mentioned papers being forwarded to the Examiner, a new Office Action would be issued, such new Action has not been received to date; accordingly, this Request is being submitted as a full response to the outstanding Action, and the vacation of that Office Action and issuance of a new Action is respectfully requested.

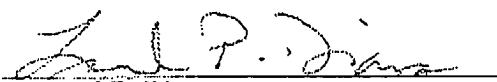
Should the Examiner upon consideration of the Second Preliminary Amendment and of the information cited in the Second Information Disclosure Statement, deem that any issues remain outstanding, he is respectfully requested to contact Applicant's undersigned attorney in an effort to resolve all such issues and to place the application fully in condition for allowance, as quickly as possible.

Any fee deemed due in connection with this paper should be charged, and any overpayment credited, to Deposit Account 06-1205.

Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,


Leonard P. Diana
Attorney for Applicant
Registration No. 29,296

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<p>TO: Examiner T. Matthes USPTO - TCM-A Unit 3764</p>	
<p>FROM: Leonard P. Drapkin (Reg. No. 29,296)</p>	
<p>ICR: U.S. Patent Appln. No. 09/559,412 Attorney Docket: 02633.960001</p>	
<p>FAX NO.: 704-872-9306</p>	
<p>DATE: July 23, 2004 NO. OF PAGES: 13</p>	
<p>TIME: SENT BY:</p>	
<p>MESSAGE: <small>Priority and other classification codes being used are indicated in the United States Patent and Trademark Office Ex. No. 901 872 9306 No. 23-2001 Date of Transmittal Examiner P. Drapkin (Reg. No. 29,296) Attorney or Agent for Applicant Drapkin, Leonard P. Date of Deposit Date of Serial Date of Registration</small> </p>	
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